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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,445	12/31/2001	Jacquelyn Martino	US 010685	4835

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EXAMINER

ROBINSON, GRETA LEE

ART UNIT PAPER NUMBER

2168

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,445

Applicant(s)

MARTINO ET AL.

Examiner

Greta L. Robinson

Art Unit

2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-11,13-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-11,13-16 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2005 has been entered.

2. Claims 1, 3-6, 8-11, 13-16, 18-24 are pending in the present application. Claims 1, 6, 8-11, 16 and 22 have been amended.

Drawings

3. The drawings were received on June 9, 2005. These drawings are acceptable.

4. The drawings are objected to because reference character *System 100* is **depicted as coupled to both Figure 1A and Figure 1B**. Note because Figure 1A is a separate view than Figure 1B system 100 must be shown separately in each view. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an

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amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as “amended.” If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor’s name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 16, 18-20 and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims that recite nothing but the physical characteristics of a form of energy, such as frequency, voltage or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable matter as set forth in §101.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 3-6, 8-11, 13-16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiyoshi US Patent 6,601,067 B1 in view of Signore et al. *Using Procedural Patterns in Abstracting Relational Schemata* and Regeard et al. US Patent Application Publication No. 2004/0103433 A1.

Regarding claim 1, Hiyoshi teaches "a sort controller receiving a plurality of information items regarding content" note *sort/merge processor 10* figure 1. Hiyoshi teaches *input files* for receiving a plurality of information, information is read through *file reading unit 15* figure 1. Hiyoshi teaches "wherein the sort controller sorts the

information items" note *sort/merge execution unit* 18 figure 1, also see column 4 lines 10-20. Hiyoshi does not specifically teach "sort keys derived from predetermined user sorting preferences for a current user task context and content type", however this feature is taught by Signore et al. **Signore et al.** teaches reverse engineering based on identification of schema, primary key, SQL and procedural indicators that leads to the assertion of prolog facts [note: page 129 section 3 note predefined indicators for detecting primary keys and section 4 note alternate method unique index and "ask user to choose primary or candidate keys"; page 130 left hand side section 5 detection of the indicators; page 132 note section 5.2 foreign key, 5.3 referential integrity constraints, and Table 3- Matix of Indicators]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Signore et al. with Hiyoshi because Signore et al. would provide a schematic indicator for constraint with respect to sorting in Hiyoshi. Hiyoshi and Signore et al. do not explicitly teach user task context. The concept of user task context is inferred by Signore et al's ability to define a constraint and detection of indicators. In Signore et al. the user task context would be defined in the constraint. However, Regard et al. depicts sorting based on sorting preferences for a user task context [note: abstract; Figure 2 step 8 "Sorting by name"; paragraph 0034 through 0037; also note paragraphs 0004 through 0016]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Regard et al. with the cited references because Regard et al. further shows how a search can be customized to selective sort a program listing in an electronic program guide. Applicant's present invention appears to be geared toward this concept.

9. Regarding claim 3, "wherein the selected sort keys include a primary sort key" [note: Signore et al., page 129-130; page 134].
10. Regarding claim 4, "wherein a change in the current user task context is inferred from a change of the primary sort key by the user" [see: Signore et al., page 129 note section 4 primary and candidate keys].
11. Regarding claim 5, "wherein the plurality of information items are displayed in an order determined by the sort controller" [note: Hiyoshi, column 4 lines 28-32 and lines 53-55].
12. The limitations of claims 6-10 and 16-20 have been addressed above except for the following: an audio receiver, Internet access, remote control device and a signal [note: Hiyoshi input device 28 figure 2, column 5 lines 25-34; Regeard et al. Figure 3].
13. The limitations of method claims 11-15 parallel system claims 1-5; therefore they are rejected under the same rationale.
14. Regarding claims 21-24, a user interface communicably coupled to the sort controller to receive user input identifying the current user task context [note: Hiyoshi, column 4 lines 40-55; also note interface 26 Figure 2].

Response to Arguments

15. Applicant's arguments with respect to claims 1, 3-6, 8-11, 13-16, and 18-24 have been considered but are moot in view of the new ground(s) of rejection.

In the response Applicant argued, prior art reference Signore et al. does not teach a mechanism for deriving sort keys from predetermined user sorting preferences for a current user task and content type for the information items. In response to Applicant's arguments a new rejection has been made, note newly cited reference Regeard et al.. Regeard et al. teaches selective sorting of a list of program offerings in which the themes may be customized [paragraphs 0040-0016, abstract; Figure 2 step 8, also note paragraph 0037]. The limitation of sorting by "user task context" is inferred in prior art reference Signore et al. through constraints and detection of indicators, however newly cited reference Regeard et al. has been added. Applicant's arguments regarding the rejection under 35 USC 112 first and second paragraphs are convincing, the rejections have been dropped.

Conclusion

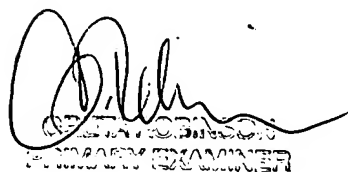
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Martinio et al. US Patent 6,662,177 B1

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571)272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Greta Robinson', with a stylized flourish at the end.

Greta Robinson
Primary Examiner
January 14, 2006